HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.14213 OF 2007

Between:

G.Nageshwar and others

. . .Petitioners

AND

The Commissioner,
Endowments Department,
Boggulakunta, Tilak Road, Hyderabad and others

. . .Respondents

:: O R D E R ::

Counsel for the petitioners : Shri M.Rama Rao

5th July, 2007

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Per G.S.SINGHVI, C.J.

In this petition filed in the name of public interest litigation, G. Nageshwar and 11 others, who are residents of Keshampet Village and Mandal and Shadnagar, Mahbubnagar District, have prayed for issue of a mandamus to respondent Nos.1 and 2 to register Nirmamidi Matam and Shiva Temple situated at Keshampet Village under Section 44 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act').

The petitioners claim to be the devotees and followers of the above mentioned math and temple. According to them, the math and temple were established by Karri Basavaiah, son of Viroopakshaya and Matam Mallayya and they were Mathadhipathis till their lifetime and that the then Jagirdar of Wanaparthi had donated agricultural land comprised in Survey Nos.781, 783, 784 and 777 measuring Ac.47.07 guntas to the math and temple. They have alleged that after the demise of Karri Basavaiah and Matam Mallayya, respondent No.3 Pedda Gangadharaiah became Mathadhipatahi and during his tenure, several irregularities including misappropriation of funds and sale of land belonging to the math have been committed. Their grievance is that despite repeated representations made to the authorities of the Endowments Department to take control of the lands belonging to the temple, the latter have not taken any action and the math and temple have not been registered under Section 44 of the Act.

Sri M. Rama Rao, learned counsel for the petitioners invited the Court's attention to representation dated 25-5-2006 made by the

villagers of Keshampet to the Chief Minister of the State with copies to the officers of the Endowments Department and the District Administration, representation dated 5-3-2007 made by petitioner No.1 to Commissioner, Endowments Department, and argued that failure of respondent Nos.1 and 2 to take action for registration of the math and temple should be treated as sufficient for issue of a mandamus to them to take necessary steps in that regard. Learned counsel submitted that publication of the temple in the list of charitable institutions and endowments does not absolve respondent Nos.1 and 2 from taking action for registration of the math and temple.

We have considered the submissions of the learned counsel, but have not felt impressed. A conjoint reading of letters dated 17-10-2005 and 9-2-2007 (Exs.P1 and P3) makes it clear that the temple is already included in the list published under Section 6(c)(ii) of the Act. It is, thus, clear that the math and temple are classified as endowments and religious institutions. Therefore, non-registration thereof is inconsequential.

Section 44 of the Act, on which reliance has been placed by Sri M. Rama Rao, reads as under:

> "**44 Power of Commissioner to have the institution or endowment registered:-** Where any trustee or other person incharge of the management of a charitable or religious institution or endowment fails to apply for the registration of the institution or endowment, the Commissioner shall give notice to the trustee or the other person aforesaid to make an application in that regard within a specified period and if he fails to make such application within the period specified, the Commissioner may have the institution or endowment registered after following the prescribed procedure and recover the cost incurred for such registration from the funds of such institution or endowment."

A reading of the above reproduced provision makes it clear that any trustee or other person in-charge of the management of a

charitable or religious institution or endowment is required to apply for registration of the institution or endowment. If he fails to do so, the Commissioner has to give notice to the trustee or the other person in-charge to make an application in that regard within a specified period. If no application is filed within the specified time, then the Commissioner can get the institution registered after following the prescribed procedure. The petitioners are not shown to have made any representation to the Commissioner in the context of Section 44 of the Act. The representations made by them only contain grievance regarding encroachment and grabbing of the land of the math and temple by the villagers with the help of respondent No.3. Therefore, it is not possible to record a finding that respondent No.1 has failed to take action in accordance with Section 44 of the Act.

With the above observations, the writ petition is dismissed leaving the petitioners free to approach respondent No.1 to take action in accordance with Section 44 of the Act on the premise that the math and temple have already been enlisted under Section 6(c)(ii) read with Section 6(d) of the Act. However, this shall not be construed as a mandate of the Court for registration of the math and temple under Section 44 of the Act and it will be for the concerned authority to take appropriate action/decision in accordance with law.

As a sequel to dismissal of the writ petition, WPMP.No.17853 of 2007 filed by the petitioners for interim relief is also dismissed.

G.S.SINGHVI, C.J.

5th July, 2007

C.V.NAGARJUNA REDDY, J.

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